

**PT 00-44**

**Tax Type: Property Tax**

**Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

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**ST. ANTHONY  
MEDICAL CENTER  
OF ROCKFORD,  
APPLICANT**

**v.**

**ILLINOIS DEPARTMENT  
OF REVENUE**

**No. 99-PT-0040  
(98-101-0157)**

**P.I.N: 165C-309**

**Alan I. Marcus  
Administrative Law Judge**

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**RECOMMENDATION FOR DISPOSITION**

**APPEARANCES:** Mr. Charles F. Thomas of Hinshaw & Culbertson on behalf of St. Anthony Medical Center (hereinafter the "applicant"); Mr. William Don Emmert, Assistant States Attorney for the County of Winnebago on behalf of the Winnebago County Board of Review (hereinafter the "Board"); Ms. Kathleen Elliot, City Attorney, on behalf of the City of Rockford (hereinafter the "City").

**SYNOPSIS:** This proceeding raises a very limited issue, that being the extent to which real estate identified by Winnebago County Parcel Index Number 165C-309 (hereinafter the "subject property") was "exclusively used for charitable or beneficent purposes ...," within the meaning of Section 15-65 of the Property Tax Code, 35 ILCS 200/1-3 *et seq.* during the 1998 assessment year.

The controversy arises as follows:

Applicant filed an Application for Property Tax Exemption with the Board on December 15, 1998. The Board reviewed the application and recommended to the Illinois

Department of Revenue (hereinafter the "Department") that a partial exemption be granted. (Dept. Ex. No. 1). The Department then reviewed the Board's recommendation and issued its recommendation in this matter on April 15, 1997. Said determination found that: (1) 88.8% of the building and site located on the subject property were exempt; but, (2) the remaining 11.2% of said building and site, along with 100% of the parking lots, driveways, sidewalks and common areas located on the subject property were taxable. (Dept. Ex. No. 2).

Applicant filed a timely appeal to this determination. It later presented evidence at a formal evidentiary hearing, at which the City and the Board also appeared and presented evidence. Following submission of all evidence and a careful review of the record, I recommend that the Department's determination in this matter be modified to reflect that: (1) 90% of the building, parking areas, driveways, sidewalks and common areas located on the subject property be exempt from 1998 real estate under Sections 15-65 and 15-125 of the Property Tax Code; but, (2) the remaining 10% of the building, parking areas, driveways, sidewalks and common areas located on said property not be so exempt.

**FINDINGS OF FACT:**

1. The Department's jurisdiction over this matter, and its position therein, are established by the admission of Dept Ex. Nos. 1, 2.
2. The Department's position in this matter is that: (1) 88.8% of the building and site located on the subject property are in exempt use; but, (2) the remaining 11.2% of said building and site, along with 100% of the parking lots, driveways, sidewalks and

common areas located on the subject property are taxable because they are not in exempt use. Dept. Ex. No. 2.

3. The subject property is located at 5510 E. State Street, Rockford, IL and improved with a 61,552 square foot medical facility. Dept. Ex. No. 1; Applicant Group Ex. No. 4.
4. Applicant, the City and the Board (hereinafter collectively referred to as the “parties”) have stipulated that: (A) applicant owned the subject property throughout the tax year in question; (B) applicant qualifies as an “institution of public charity” within the meaning of Section 15-65 of the Property Tax Code; (C) approximately 6% of the total building area<sup>1</sup> was not in exempt use throughout the 1998 assessment year;<sup>2</sup> (D) all other areas of the building, except a 2,500 square foot Fitness Center (hereinafter the “Center”), were in exempt use; and, (E) the parking lots and other ancillary areas (sidewalks, driveways, etc.) were in partial exempt use.<sup>3</sup> Tr. pp. 6-12, 26, 27, 34, 36, 101, 105.
5. The Center’s facilities, which included exercise bikes, weight resistance machines, stair steppers, treadmills, rowing machines and massage therapy, were available to those who received cardiac rehabilitation or other therapeutic services at applicant’s

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1. The 6% figure represents three areas of the subject property, the first measuring 1,199 square feet, the second measuring 2,100 square feet and the third measuring 333 square feet, which the parties agree are not in exempt use. The sum of the square footage of these areas is equal to 3,632 square feet which, when divided by the total building area, 61,552 square feet, equals .059 (rounded 3 places past the decimal) or 6% of the total building area. Tr. pp. 15-19.

2. This and all subsequent Findings of Fact shall refer to 1998 uses unless context clearly specifies otherwise.

3. The parties did not stipulate as to the extent of that exempt use. They did, however, agree that the scope of same should correspond to the percentage of exempt use for the building. Tr. pp. 6-7, 97, 101, 105.

medical facility. They were also available to the general public on a membership basis. Applicant Group Ex. No. 4; Board Ex. No. 1; Tr. pp. 45-48.

6. Applicant's membership structure was divided into the following categories:

<b>CATEGORY</b>	<b>NUMBER OF MEMBERS</b>	<b>% OF TOTAL</b>
Employee Members	58	9%
Physician & Administration Members	24	4%
Cardiac Rehab Patients Under Physician Care & Direction	36	6%
Direct Referral From Physician	26	4%
Members Continued From Cardiac Rehabilitation	24	4%
Members Continued from Other Rehabilitation Services	27	4%
Total From Above Categories	195	30%
Others	456	70%
<b>TOTAL ACTIVE MEMBERS</b>	<b>651</b>	

Applicant Ex. No. 7; Tr. pp. 52-55.

7. Applicant offered the following membership packages to the Center:

<b>PACKAGE</b>	<b>COST</b>	<b>BENEFITS</b>
Premium	\$280.00 per year	<ul style="list-style-type: none"><li>• Comprehensive physical evaluation;</li><li>• Blood cholesterol screening;</li><li>• Flexibility, body composition and other tests related to overall physical fitness;</li><li>• Individually designed exercise program;</li><li>• Supervised exercise;</li><li>• Year's use of the facility and equipment.</li></ul>
Baseline	\$190.00 per year	<ul style="list-style-type: none"><li>• Initial evaluation;</li><li>• Risk factor assessment;</li><li>• Individually designed exercise program;</li><li>• Equipment demonstration session;</li><li>• Supervised exercise;</li><li>• Year's use of the facility and equipment.</li></ul>
6 Month	\$125.00 for 6 months	<ul style="list-style-type: none"><li>• Same services as baseline package</li></ul>
3 Month <sup>4</sup>	\$90.00 for 3 months	<ul style="list-style-type: none"><li>• Same services as baseline package</li></ul>

Board Ex. No. 1.

8. According to an advertisement, each new member of the Center is “required” to pay an initiation fee of \$75.00 when signing up for a one year or 6 month membership.

*Id.*

9. Applicant adhered to “core values” of providing services to all person regardless of race, color, religion or ability to pay, which it enforced through a financial assessment program. Applicant Ex. No. 9; Tr. pp. 86.

10. Only two persons had fees and other related charges for use of the Center waived or reduced via the financial assessment program during 1998. Tr. pp. 78-79, 85.

### **CONCLUSIONS OF LAW:**

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4. This particular membership is only available to college students. Board Ex. No. 1.

An examination of the record establishes that this applicant has demonstrated, by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant modification of the Department's initial determination herein. Accordingly, under the reasoning given below, said determination should be modified to reflect that: (1) 90% of the building and site located on the subject property, inclusive of the parking lots, sidewalks and other areas adjacent thereto, be exempt from 1998 real estate taxes under Sections 15-65 and 15-125 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq*; but, (2) the remaining 10% of said building and site, inclusive of the parking lots, sidewalks and other areas adjacent thereto, not be so exempt. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted the Property Tax Code 35 **ILCS** 200/1-1 *et seq*. The provisions of the Code that govern disposition of this case are found in Sections 15-65(a) and 15-125, the former of which provides that:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

(a) institutions of public charity

35 **ILCS** 200/15-65(a).

Section 200/15-125 provides that:

Parking areas, not leased or used for profit, when used as part of a use for which an exemption is provided by this

Code and owned by any school district, non-profit hospital, or religious or charitable institutions which meets the qualifications for exemption, are exempt.

35 ILCS 200/15-125.

Sections 15-65(a) and 15-125, like all statutes exempting property from taxation, are be strictly construed against exemption. People Ex Rel. Nordland v. the Association of the Winnebago Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). For this reason, all doubtful factual questions and other debatable matters must be resolved in favor of taxation. *Id.* Therefore, applicant, which bears the burden of proof in all exemption matters, must satisfy a standard of clear and convincing evidence in order to prove that the relevant statutory exemption applies. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App. 3d 678 (4th Dist. 1994).

Here, the relevant statutory exemptions pertain to "institutions of public charity" and parking areas. The statutory requirements for exemption under both provisions are: (1) exempt ownership; and, (2) exempt use. 35 ILCS 200/15-65(a), 125; Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156 (1968); Northwestern Memorial Foundation v. Johnson, 141 Ill. App.3d 309 (1<sup>st</sup> Dist. 1986). Only the latter requirement is at issue herein, as the instant partial denial was predicated solely on lack of exempt use. Dept. Ex. No. 2. Therefore, I shall forego further discussion of the exempt ownership requirement and focus all remaining analysis on the issue of exempt use.

The adversarial parties herein, whose pecuniary interests are affected by the outcome of this case, have stipulated that: (1) the primary source of controversy herein is whether the Center was in exempt use; and, (2) the outcome of the secondary

controversy, which centers around the extent to which the parking lots and other ancillary areas were in exempt use, necessarily depends on the outcome of the first. Tr. pp. 6-12, 26, 27, 34, 36, 101, 105. Accordingly, this case turns on whether the Center should be included in, or excluded from, the total amount of exempt square footage within the building. For the following reasons, I conclude that the Center should be excluded.

The word “exclusively,” when used in Section 200/15-65 and other property tax exemption statutes, means the “the primary purpose for which property is used and not any secondary or incidental purpose.” Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993). “Charitable or beneficent purposes” are those which, by definition, benefit an indefinite number of people and persuade them to an educational or religious conviction that benefits their general welfare or somehow reduces the burdens of government. Crerar v. Williams, 145 Ill. 625 (1893).

In Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156, 157 (1968) (hereinafter “Korzen”), the court identified 5 criteria<sup>5</sup> that effectuate this definition. Not

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5. The five criteria are that applicant : (1) have no capital stock or shareholders; (2) earn no profits or dividends, but rather, derive its funds mainly from public and private charity and holds such funds in trust for the objects and purposes expressed in its charter; (3) dispense charity to all who need and apply for it; (4) not provide gain or profit in a private sense to any person connected with it; and, (5) not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses. Korzen, *supra* at 157.

all of these criteria are pertinent to the outcome in this case. Those that are, however, require that the alleged “charitable” use be one wherein: (1) charity is dispensed to all who need and apply for it; and, (2) obstacles are not placed in the way of those who would avail themselves of the benefits applicant dispenses. Korzen, *supra* at 157.

The Center’s fee structure does not satisfy these criteria for several reasons. First, applicant charges a \$75.00 initiation fee to persons signing up for a one year or six month membership to the Center. *See*, Board Ex. No. 1. Assessing such a fee does not, *ipso facto*, defeat exempt use so long as applicant accommodates those who are unable to pay. Small v. Pangle, 60 Ill.2d 510, 518 (1975). Applicant does not make such accommodations, for the advertisement admitted as Board Ex. No. 1 clearly states that “each new member is *required* to pay an initial enrollment fee when signing up for a one year or 6 month membership.” Board Ex. No. 1. (emphasis added).

The advertisement does not mention applicant's “core values,” which state, in relevant part, that applicant is to respect the “[p]ersonal worth and dignity of every person [it serves] regardless of race, color and ability to pay.” Applicant Ex. No. 9. In this respect, the present case is strongly analogous to Highland Park Hospital v. Department of Revenue, 155 Ill. App.3d 272, 280-281 (2d Dist. 1987), wherein part of a health care facility was held non-exempt because, *inter alia*, advertisements failed to disclose that free care was available at the facility. Highland Park Hospital at 280-281. Even if the advertisement did mention applicant’s “core values,” it is well settled that mere statements of intent to engage in exclusively charitable or other exempt activity are legally insufficient to prove that applicant in fact engages in same. Morton Temple Association v. Department of Revenue, 158 Ill. App.3d 794, 796 (3rd Dist. 1987).

Only 2 of 651 members actually had their financial commitments to the Center waived or reduced pursuant to applicant's "core values" during 1998. Furthermore, the Center's membership fees, which form the principal component of such commitments, are structured so as to make the availability of its services increase in direct proportion to an individual's ability to pay. Thus, the fact that a premium membership, which costs \$280.00, offers a far greater range of services than the 6 month membership, which costs \$125.00 (*See*, Board Ex. No. 1), indicates that the Center's operations are more attuned to providing augmented levels of service to those who can afford its membership fees rather than dispensing "charity" to those who cannot.

Based on the foregoing, I conclude that the Center is primarily used to provide exercise facilities and related services to its fee-paying membership. Consequently, any "charity" the Center dispenses pursuant to applicant's "core values" is but an incidental by-product of that non-exempt use. Therefore, applicant's use of the Center fails to qualify as "exclusively ... charitable" within the meaning of Section 15-65. *Accord*, Rogers Park Post No. 108 v. Brenza, 8 Ill.2d 286 (1956); Morton Temple Association, 158 Ill. App. 3d 794, 796 (3<sup>rd</sup> Dist. 1987); Albion Ruritan Club v. Department of Revenue, 209 Ill. App. 3d 914 (5<sup>th</sup> Dist. 1991); Pontiac Lodge No. 294 A.F. and A.M. v. Department of Revenue, 243 Ill. App. 3d 186 (4<sup>th</sup> Dist. 1993). (Holding that organizations which operate primarily for the benefit of their dues-paying membership fail to qualify for exempt status).

Exemptions have been sustained where applicant proves that its use of the subject property is "reasonably necessary" to support other exempt uses. Memorial Child Care v. Department of Revenue, 238 Ill. App. 3d 985 (4<sup>th</sup> Dist. 1992) (Day care center that

limited its enrollment to children of employees working at a charitable hospital and its affiliated corporations held exempt).

Only 30% of the Center’s membership have some sort of connection (i.e. staff physician, employee, cardiac rehabilitation patient, physician referral, etc.) to applicant’s health care facility or the services rendered thereat. *See*, Finding of Fact 6, *supra*, at p. 4. Furthermore, if one excludes physician, administration and employee members from that 30%, one discovers that only 17% of the Center’s total membership<sup>6</sup> is attributable to persons who require cardiac rehabilitation or other medically-related services. Because applicant submitted no evidence establishing that the any significant part of the remaining 83% became members because they require such services, I cannot conclude that the Center was primarily used to further the needs of applicant’s health care facility. Consequently, the Center does not qualify for exemption under the “reasonably necessary” standard articulated in Memorial Child Care v. Department of Revenue,

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6 . I derived 17% from the following computations:

CATEGORY	NUMBER OF MEMBERS	% OF TOTAL	COMPUTATIONS
Total Members	651	100%	
Health Center Employees & Related Personnel			
Employee Members	58		
Physician & Administration Members	24		
<b>Total</b>	<b>82</b>	<b>13%</b>	82/651=.1260 (rounded) or 13%
Members Receiving Medically-Related Services			
Cardiac Rehabilitation Patients Under Physician Care & Direction	36		
Direct Referral From Physician	26		
Members Continued From Cardiac Rehabilitation	24		
Members Continued From Other Rehabilitation Services	27		
<b>Total</b>	<b>113</b>	<b>17%</b>	113/651 =.1736 (rounded) or 17%

*supra*. For this and all the above-stated reasons, I recommend that the Department's computations as to the non-exempt areas of the building be modified as follows:

<b>VARIABLE/AREA</b>	<b>SQUARE FOOTAGE</b>	<b>% OF TOTAL BUILDING AREA</b>
Total Square Footage of the Building	61,552	100%
Total Square Footage Of the Center	2,500	4% <sup>7</sup>
Total Square Footage of Other Areas of the Building that Parties Agree Are Not In Exempt Use <sup>8</sup>	3,632	6% <sup>9</sup>
<b>TOTAL NON-EXEMPT AREAS</b>	<b>6,132</b>	<b>10%<sup>10</sup></b>
<b>TOTAL EXEMPT AREAS</b>	<b>55,420</b>	<b>90%<sup>11</sup></b>

With respect to the parking areas,<sup>12</sup> streets, sidewalks and other adjacent areas, the parties have stipulated that, pursuant to Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971) and Streeterville Corporation v. Department of Revenue, 186 Ill. 2d 534 (1999), the percentage of exempt space for all of these areas should correspond to that of the building. Tr. pp. 6-7, 97, 101, 105. I have previously concluded that 90% of the

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7.  $2,500/61,552 = 0.0406$  (rounded), which is equivalent to 4%.

8. See, Finding of Fact 4C and footnote 1, *supra*, at p. 3.

9.  $3,632/61,552 = 0.0590$  (rounded), which is equivalent to 6%.

10.  $6,132/61,552 = 0.0996$  (rounded), which is equivalent to 10%.

11.  $61,552 - 6,132 = 55,420$ ;  $55,420/61,552 = 0.9004$  (rounded), which is equivalent to 90%.

12. Such areas qualify for exemption under Section 15-125 of the Property Tax Code, provided that they: (1) are not leased or otherwise used for profit; and (2) are used as part of a use for which an exemption is provided by this Code; and (3) are owned by any school district, non-profit hospital,

building is in exempt use. Therefore, 90% of the parking areas, streets, sidewalks and other adjacent areas should likewise be exempt.

WHEREFORE, for all the above-stated reasons, it is hereby recommended that:

1. 90% of the building improvement located on real estate identified by Winnebago County Parcel Index Number 165C-309 be exempt from 1998 real estate taxes under Section 15-65 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq*;
2. The remaining 10% of said building not be so exempt;
3. 90% of the parking areas, streets, sidewalks and other adjacent areas located on real estate identified by Winnebago County Parcel Index Number 165C-309 be exempt from 1998 real estate taxes under Sections 15-65 and 15-125 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq*;
4. The remaining 10% of said areas not be so exempt.

October 28, 2000

Date

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Alan I. Marcus  
Administrative Law Judge

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or religious or charitable institutions which meets the qualifications for exemption. 35 **ILCS** 200/15-125; Northwestern Memorial Foundation v. Johnson, 141 Ill. App.3d 309 (1<sup>st</sup> Dist. 1986).